

Tulchin, Matt



From: Rob Lindholm <robert.lindholm@nelsonmullins.com>
Sent: Friday, November 22, 2024 3:06 PM
To: Rodriguez, Orlando
Cc: Tulchin, Matt; Matthew Lindenbaum; Duprey, Michelle; Jenni Jokerst; Soren Young
Subject: RE: Doe v. NCDPS, et al. - Plaintiffs' discovery requests

Orlando,

Thank you for your email this morning. Defendants' failure to participate fully in discovery continues to prejudice Plaintiffs by, among other things, artificially limiting the information available for Plaintiffs' experts, whose reports are due on December 4, and inhibiting Plaintiffs' ability to notice depositions of key witnesses. Moreover, the letters to which Defendants still have not fully responded raise significant issues regarding the scope of discovery in this case, which must be resolved well in advance of the close of fact discovery. If Defendants do not respond substantively to Plaintiffs' letters, Plaintiffs will bring the issues addressed therein to the Court.

Due to Defendants' delay in producing documents, Plaintiffs intend to request that the Court extend the deadline for Plaintiffs' expert disclosures to February 18, 2025, 15 days after the current deadline for the close of fact discovery. By placing the deadline for expert reports after the close of fact discovery, Plaintiffs hope to avoid requesting additional extensions from the Court should Defendants continue to delay production of documents. Please let me know by Monday, November 25 at noon if Defendants will consent to this extension.

Defendants' inability to commit to a firm timetable for producing emails is troubling. Plaintiffs served the discovery requests that are the subject of Defendants' email review *more than six months ago*. Plaintiffs reached agreement with Defendants on an initial set of search terms *more than three months ago* and resolved all outstanding issues regarding search terms *five weeks ago*. Nevertheless—and despite Plaintiffs' repeated requests—Defendants still have not committed to a date on which they will even begin producing emails returned by these search terms. Defendants have an obligation under the Federal Rules of Civil Procedure to state plainly when their response to Plaintiffs' document requests will be complete. To comply with this requirement, Defendants must commit to a firm schedule of rolling document productions with a clear end date. To complete fact discovery by February 3, 2025, Defendants must produce all remaining responsive documents by January 3, 2025, with significant rolling productions beginning no later than December 6, 2024.

Defendants' failure to produce any of the tens to hundreds of thousands of documents you state Defendants must review casts doubt on Defendants' ability to comply with such a schedule—or even to produce all responsive documents before the deadline for completion of fact discovery. In an attempt to minimize or ideally avoid moving the Court for further extensions to the discovery deadlines in this case, Plaintiffs propose that Defendants produce all document families hitting on the agreed upon search terms to Plaintiffs without review for responsiveness. To alleviate concerns about the production of privileged materials, Plaintiffs would be amenable to excluding from this production any documents hitting on the names or email addresses of Defendants' counsel and reserving the right to claw back any privileged documents that are discovered after production. Similarly, Plaintiffs would be amenable to designating all documents produced in this way as "General Confidential Information," both parties reserving the right to argue for a greater or lesser confidentiality level at a later date.

Best,
Rob



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From: Rodriguez, Orlando <orodriguez@ncdoj.gov>
Sent: Friday, November 22, 2024 7:02 AM
To: Rob Lindholm <robert.lindholm@nelsonmullins.com>
Cc: Tulchin, Matt <MTulchin@ncdoj.gov>; Matthew Lindenbaum <matthew.lindenbaum@nelsonmullins.com>; Duprey, Michelle <MDuprey@cfcrights.org>; Jenni Jokerst <jenni.jokerst@nelsonmullins.com>; Soren Young <soren.young@nelsonmullins.com>
Subject: Re: Doe v. NCDPS, et al. - Plaintiffs' discovery requests

Rob,

I responded to your letter as promptly as I could, and as thoroughly as I could. As I indicated in my response, we continue to work on addressing all of the discovery issues that you have raised in your multiple letters. We will continue to do so as promptly and as thoroughly as we are able. There are only two lawyers on this case and we working as diligently as we can to get a handle of all of this discovery and provide responses to you.

With respect to your demand for a date certain upon which we can start producing emails, I'm afraid I cannot give you a particular date. There are tens of thousands if not hundreds of thousands of emails that we have to organize review and mark for confidentiality and/or removed for privilege purposes.

Be well,

Orlando L. Rodriguez

From: Rob Lindholm <robert.lindholm@nelsonmullins.com>
Sent: Thursday, November 21, 2024 8:28:36 PM
To: Rodriguez, Orlando <orodriguez@ncdoj.gov>
Cc: Tulchin, Matt <MTulchin@ncdoj.gov>; Matthew Lindenbaum <matthew.lindenbaum@nelsonmullins.com>; Duprey, Michelle <MDuprey@cfcrights.org>; Jenni Jokerst <jenni.jokerst@nelsonmullins.com>; Soren Young <soren.young@nelsonmullins.com>
Subject: RE: Doe v. NCDPS, et al. - Plaintiffs' discovery requests

Orlando,

While I appreciate you getting back to me below, your email does not address most of my concerns raised in my November 18 letter. As my letter indicated, we have sent three different letters identifying separate and distinct deficiencies in NCDPS's responses to our discovery requests. Your email only addresses our second deficiency letter sent on September 20, 2024 – two months ago. First, please let me know when we can expect your response to that September 20 letter. Second, NCDPS has not responded to the first deficiency letter (dated September 13, 2024) or the

third deficiency letter (dated October 7, 2024). Those letters raise significant issues regarding the scope of discovery, among other issues, and we need to know NCDPS's position on those issues so we can attempt to resolve any remaining issues before having to go to the Court for relief.

Finally, your update on your email collection and review is not sufficient. I believe we have been more than patient with NCDPS on this, but at this point we are over six months into discovery and have received only a handful of emails despite the fact that many of Plaintiffs' requests require an email search and review. Please provide us with a date by which we can expect the first of NCDPS' rolling email productions.

Thank you.

Best,
Rob



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From: Rodriguez, Orlando <orodriguez@ncdoj.gov>
Sent: Wednesday, November 20, 2024 12:20 PM
To: Rob Lindholm <robert.lindholm@nelsonmullins.com>
Cc: Tulchin, Matt <MTulchin@ncdoj.gov>; Matthew Lindenbaum <matthew.lindenbaum@nelsonmullins.com>; Duprey, Michelle <MDuprey@cfcrights.org>; Jenni Jokerst <jenni.jokerst@nelsonmullins.com>; Soren Young <soren.young@nelsonmullins.com>
Subject: RE: Doe v. NCDPS, et al. - Plaintiffs' discovery requests

Rob,

We have received all the emails and are in the process of reviewing those and will begin rolling production as that review continues. We are also in the process of gathering the information necessary to respond to your second deficiency letter, and will also be producing additional documents, if any as that process unfolds. Lastly, DPS continues its efforts to gather additional responsive material, which will be produced as those materials are gathered and reviewed.

Be well,

Orlando

Special Deputy Attorney General
Special Litigation Section
Phone: 919.716.6516
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Please note messages to or from this address may be public records.

From: Rob Lindholm <robert.lindholm@nelsonmullins.com>
Sent: Monday, November 18, 2024 10:03 PM
To: Rodriguez, Orlando <orodriguez@ncdoj.gov>
Cc: Tulchin, Matt <MTulchin@ncdoj.gov>; McHenry, Laura <LMcHenry@ncdoj.gov>; Whitaker, Bethel <bwhitaker@ncdoj.gov>; Matthew Lindenbaum <matthew.lindenbaum@nelsonmullins.com>; Duprey, Michelle <MDuprey@cfrights.org>; Jenni Jokerst <jenni.jokerst@nelsonmullins.com>; Soren Young <soren.young@nelsonmullins.com>
Subject: Doe v. NCDPS, et al. - Plaintiffs' discovery requests

Orlando,

Please see the attached correspondence.

Best,
Rob



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